

REMARKS

The application has been amended. Claim 1 has been amended to more fully describe the features of the present invention. As this amendment is not believed significantly change the scope of the claims, entry of the amendment and reconsideration is respectfully requested.

Independent claim 1 stands rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,142,341 to Uematsu in view of U.S. Patent Application Publication No. 2002/0094415 to JUD. In view of the remarks presented hereinbelow, this determination is respectfully traversed.

In enumerated paragraph 6 of the Office Action, the Examiner states that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the sealing surface of Uematsu to be rough, as taught by JUD, in order to improve the seal between the spout and the bag.

However, there is no teaching in Uematsu or JUD that a rough surface would improve the seal between two objects.

On the basis of the disclosure of the combination of Uematsu and JUD such rough sealing surface to improve the sealing cannot be regarded as a predictable result or as a use of a known technique to improve similar devices. As will be set forth below, the improved seal of

the present invention could not be expected from the combination of the teachings of Uematsu and JUD as alleged by the Examiner.

JUD relates to planar lids of film material that can be placed in a stack in a packaging machine. The lids are made of film material, in particular a sealing layer and a substrate layer, which are sealed on a ring-shaped shoulder of a deep drawn or stretch container. Such containers with sealed lids are for example used for beverages, yogurts, desserts and such.

JUD teaches that embossing of a surface of the lid may be advantageous to obtain a type of lid that can be separated easily into individual lids from a stack of lids (see paragraphs [0006] and [0007]). This makes automatic unstacking of these lids in a packaging machine reliable. Furthermore, JUD teaches that this embossing is preferably not provided on an outward facing surface as this may have a negative effect on the quality of an image, e.g. for information or advertising, printed or to be printed on this outward facing surface (see paragraph [0008]). Therefore, it is proposed to provide the embossing at the other surface of the lid. This is the inward facing surface of the lid, which is used as a sealing surface, i.e. the outer edge of this surface of the lid is sealed to the shoulder of the container.

In paragraph [0024] of JUD the actual sealing process between container and lid is discussed. It is remarked that *"The strength of the seal can be adjusted by appropriate choice of the sealing tool, the sealing pressure, and the sealing temperature"*. As an alternative, *"the*

bonding may be effected using an adhesive". However, there is no hint or suggestion in JUD that the sealing may be improved by a rough surface as argued by the Examiner in paragraph 6 of the Office Action. In contrast, paragraph [0024] indicates some alternatives which may weaken the seal in order to tear the seal more easily off the container to obtain access to the contents of the container. Thus, improving the seal is not even an object of the invention proposed in JUD.

As correctly concluded by the Examiner in paragraph 4 of the Office Action, Uematsu also does not disclose that each sealing surface has a rough surface structure.

Thus, on the basis of the disclosure of the combination of Uematsu and JUD it cannot be concluded that a rough sealing surface improves the sealing between the bag and spout. This knowledge was not within the level of ordinary skill at the time of the claimed invention was made, as suggested by the Examiner in paragraph 16 of the Office Action.

Also, on the basis of the disclosure of JUD there is no other reason to provide the rough sealing surface of JUD on the sealing surfaces of the spout of Uematsu. The only object of the invention JUD is to provide planar lids built up of layer materials which can easily be separated by machinery from a stack of such lids. This object is achieved by providing a rough surface on one side of the lid.

Spouts as disclosed in Uematsu are not provided in a stack in automatic machinery, or at least do not have the separation problem as encountered in lids of the type described in JUD.

Further, the present invention does not relate to sealing a closure on a container as suggested by the Examiner in paragraph 17 of the Office Action.

The lid of JUD is made of flexible layer material which is to be sealed on a shoulder of a relative stiff container, such as a deep drawn or stretched container. To release the contents of the container, the seal should be torn off the container. The lid forms a closure on the container.

In contrast, the present invention relates to a spout to be sealed in a bag, and having two opposite sealing surfaces, wherein each sealing surface has a rough surface structure. The provision of such rough surface unexpectedly improves the sealing between the spout and the bag. The spout comprises a channel that allows for feeding or dispensing a medium to or from the bag on which the spout is sealed. The spout is not a closure, but an aid to provide a rigid base for a closure of a bag. The actual closure is formed by a cap or such arranged on the spout. The bag should be sealed tightly and permanently to the spout, and not be made suitable for tearing of the seal, as proposed in JUD.

Furthermore, in the device of JUD the rough surface is provided on the lid which is made of flexible layer material, and not the relative stiff container on which the lid is sealed. In

contrast, the rough surface in the present invention is provided on the relative stiff spout and not on the film material of the bag.

When the knowledge of JUD, i.e. the provision of a rough surface, for whatever reason, would be applied in a spout-bag combination according to the present invention, the rough surface would be applied on the sealing surfaces of the flexible bag materials, and not on the sealing surfaces of the spout itself.

In view of the above, it is respectfully submitted that the claims would not have been obvious to one of ordinary skill in the art at the time the invention was made in view of the cited references.

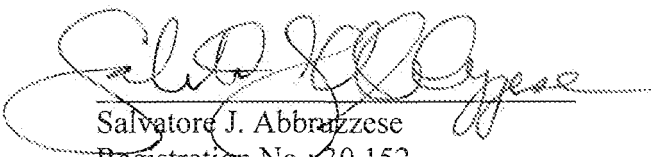
It is, therefore, respectfully submitted that claim 1 defines patentably over the references of record. Accordingly, the application, including claims 1-9, 30 and 31, is believed to be in condition for allowance. Favorable action thereon is respectfully solicited.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R. § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

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Should the Examiner have any questions regarding this response, the undersigned would be pleased to address them by telephone.

Respectfully submitted,



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